

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

THURSDAY, THE 22ND FEBRUARY 2007 / 3RD PHALGUNA 1928

OP.No. 11527 of 2003(V)

PETITIONER:

SICILIA HOTELS (P) LTD.,
IDUKKI ROAD, THODUPUZHA - 685 584,
REPRESENTED BY ITS MANAGING DIRECTOR,
MR.K.J.MATHEW.

BY ADV. SRI.C.G.SUNIL
SRI.SAJI MATHEW
SRI.DENU JOSEPH

RESPONDENTS:

1. STATE OF KERALA, REPRESENTED BY THE
SECRETARY, DEPARTMENT OF TOURISM, SECRETARIAT,
TRIVANDRUM.
2. KERALA STATE ELECTRICITY BOARD,
VAIDHUTHI BHAVAN, PATTOM, TRIVANDRUM,
REPRESENTED BY ITS SECRETARY.
3. DEPUTY CHIEF ENGINEER, - KSEB,
ELECTRICAL CIRCLE - THODUPUZHA
THODUPUZHA, IDUKKI DISTRICT.
4. ASSISTANT EXECUTIVE ENGINEER - KSEB,
ELECTRICAL MAJOR SECTION, THODUPUZHA,
IDUKKI DISTRICT.

BY ADV. SRI.P.SANTHALINGAM, SC, KSEB
ADV. SRI.C.K.KARUNAKARAN, SC

THIS ORIGINAL PETITION HAVING COME UP FOR ADMISSION
ON 22/02/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

O.P.No. 11527/2003

ORDER ON CMP 19748/2003 IN O.P.No. 11527/2003

DISMISSED.

22/02/2007

SD/- (C.N.RAMACHANDRAN NAIR, JUDGE)

// TRUE COPY //

PA TO JUDGE

jg

C.N.RAMACHANDRAN NAIR, J.

WP(C) No. 11527 of 2003

Dated, this the 22nd day of February, 2007

J U D G M E N T

Petitioner is challenging Ext.P1 bill, which is modified by Ext.P6 issued by the KSEB demanding differential tariff for the period up to 15/05/1999. I heard the learned counsel for the petitioner and the learned Standing Counsel appearing for the KSEB.

2. The petitioner is an approved hotel with single star facility, enjoying concession available for tourism industry. Accordingly, electricity bills were raised at concessional tariff till May 1999. However, exemption was withdrawn by the Government limiting it for five years. By the time, KSEB issued orders implementing Government Order on 15/05/1999, petitioner had enjoyed concessional tariff for period beyond the eligible period of five years. Consequently KSEB has raised the impugned bills.

3. The relevant order issued by the Government of Kerala is Ext.P11 dated 26/09/2000. It is made clear in para III that :

These orders will be operative from 15/05/1999, the effective date from which Kerala State Electricity Board has

withdrawn the concessional tariff offered to tourism units. The tourism units which have received certificate of eligibility for tariff concession from Director, Department of Tourism, have to produce a certificate from the Kerala State Electricity Board regarding the total period for which they have enjoyed the concessional tariff. They will be eligible for concessional tariff only for a period of five years including the period for which they have already enjoyed the concession i.e. if the tourism unit has already enjoyed tariff for a period of three years prior to 15/05/1999, they will be eligible for concessional tariff for a further period of two years only. This period will be counted from the effective date originally certified by the Director of Tourism, Government of Kerala for granting concessional tariff for three years. If any tourism unit has already enjoyed concessional tariff for a period of five years or more prior to 15/05/1999, it will not be eligible for any extension of the period of concession.

From the above, it is clear that even if concessional tariff was availed beyond five years up to 15/05/1999, no recovery of differential tariff is permissible. In the circumstance, this writ petition is allowed quashing Ext.P6. However, I make it clear that if concessional tariff is granted to the petitioner wrongly after 15/05/1999, KSEB is free to recover the differential tariff by raising fresh bills.

(C.N.RAMACHANDRAN NAIR, JUDGE.)